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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,106	02/15/2006	Angus Reardon	REAR0101PUSA	2673

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EXAMINER	
BAYOU, AMENE SETEGNE	
ART UNIT	**PAPER NUMBER**
3746	

MAIL DATE	DELIVERY MODE
12/18/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/595,106	REARDON, ANGUS	
	Examiner	Art Unit	
	AMENE S. BAYOU	3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 September 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-25* is/are pending in the application.

4a) Of the above claim(s) *3,4,9,17,19 and 21* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,5-8,10-16,18,20 and 22-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *15 February 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/28/09 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1,2,6-8,11-13,15,16,18 and 22 are rejected under 35 U.S.C 103(a) as being unpatentable over Strauss (4243529) in view of Ellison (5053145).

4. In re claim 1 Strauss discloses an oil collection apparatus including:

- An apparatus (10) for attachment to an inlet end of a conduit in fluid communication with a remote pump (26) for removing liquid from a pool of liquid, the apparatus comprising a pair of substantially spheroidal or ovoidal shaped sections (52,54) that mount about the inlet end of the conduit (16) ,the sections (52,54) forming a hollow body having a substantially elliptical cross-section ,;and wherein the pair of sections form at least one opening (56) in a generally horizontal plane between them

allowing liquid to ingress from the pool to the interior of the hollow body (54) and the inlet of the conduit (16). 22. Strauss ,however fails to disclose the following limitation which is taught by Ellison:

- The hollow body (10) is nonflotable in a pool of water, in column 3, lines 36-37. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the hollow body of Strauss to be non floatable as taught by Ellison in order to ensure that the hollow body is structurally supported (fixed) against external loads. Please also note that Strauss in column 5 lines 24-25 notes that the collection unit is held in place by mooring lines.

5. In re claim 2 Strauss discloses that the at least one opening (56), in figure 1, is located at a circumferential portion of mid section of the hollow body (52, 54).

6. In re claim 5 Strauss discloses that the at least one opening (56) in the hollow body further comprises a plurality of spaced openings (56 comprises screen 102 clearly seen in figure 6), which are arranged in a row about the mid section or mid part of the hollow body (52, 54) which has the greatest diameter, in figure 1.

7. In re claim 6 and 7 Strauss discloses that the opening formed (the opening between the sections 52, 54) is a single elongate opening (it goes around in a circular fashion) in the hollow body about a majority of its central diameter, in figure 1 and 2,and that the opening (the opening between the sections 52, 54) is adjustable in width (by varying the dimension of 82), in figure 1.In addition please note that it has been held that the provision of adjustability, where needed,

involves routine skill in the art. In re Stevens, *101 USPQ 284 (CCPA* 1954).

8. In re claim 8 Strauss discloses that the pair of sections (52, 54) are releasbaly attached to each other (via flanges 58, 60), in figure 1.

9. In re claim 11 and 12 Strauss discloses that the hollow body (52, 54) has a retaining means (the point of attachment holding the tube 16) which in use retains the inlet for the conduit (16) within the follow body (54), in figure 1,and the retaining means is a plurality of upright rods (70) attached to an internal surface of the hollow body, in figure 4.Please note that although one upright rod (70) is disclosed making a plurality of them is a mere duplication that would be obvious to one skilled in the art.

10. In re claim 13 Strauss discloses the retaining means is one of a plurality of peripheral ribs (52 or 54) located on an internal surface of the hollow body (the internal structure of both 52 and 54 is curved and thus constitute a rib (or bow) structure.

11. In re claim 15 Strauss discloses that the pumping apparatus includes the pump inlet (connected to 16), in figure 1.

12. In re claim 16 Strauss discloses that the pump (28) inlet includes a hollow valve casing having a non return valve or check valve (46), in figure 1.

13. In re claim 18 Strauss discloses that the inlet conduit (16) is a hose (column 2, lines 51, 52), and provides fluid communication between the pump inlet and the remote pump (28).

14. In re claim 22 Strauss discloses that the pump inlet is protected by a strainer or gauze (110) to prevent particulate matter entering the pump inlet, in figure 1 and 6.

15. Claim 10 is rejected under 35 U.S.C 103(a) as being unpatentable over Strauss in view of Ellison as applied to claim 8 further in view of Sloam (4789307).

16. In re claim 10 Strauss in view of Ellison discloses the claimed invention except the following limitation which is taught by Sloam :

- One section (12 or 13) of the pair of sections (12 and 13) is hingedely attached (at 14) to the other section of the pair of sections at adjacent respective ends of each of the sections, in figure 2. 26. It would have been obvious to one skilled in the art at the time the invention was made modify the oil collecting apparatus of Strauss and Ellison by connecting the pair of sections using a hinged joint as taught by Sloam for ease of opening and closing and get a faster access to the components inside the collector.

17. Claims 14 and 20 are rejected under 35 U.S.C 103(a) as being unpatentable over Strauss in view of Ellison as applied to claim 4 further in view of Hagan (US patent number 5108591).

18. In Claim 14 Strauss in view of Ellison as applied to claim 4 disclose the claimed invention except the following limitation which is taught by Hagan

- The hollow body is provided with an attachment for attaching a tether (18), in figure 1. It would have been obvious to one skilled in the art at the time the invention was made to provide a tether to the oil collecting apparatus

of Strauss and Ellison as taught by Hagan in order to stabilize the floating body). Please also note that Strauss in column 5 lines 24-25 notes that the collection unit is held in place by mooring lines and the location of attachment of the tether (either on the hollow body or at the pipe line) would be an obvious design choice.

19. In re claim 20 Strauss in view of Ellison and Hagan disclose the claimed invention :

Hagan teaches:

- The pump (53) is located on dry land, in figure 1. It would have been obvious to one having ordinary skill in the art at the time the invention was made to place the pump on remote area such as a dry land as taught by Hagan for ease of transporting the collected oil or water.

20. Claims 23-25 are rejected under 35 U.S.C 103(a) as being unpatentable over Breslin (5474685) in view of Strauss.

21. In re claim 23 Breslin disclose a method for recovering immiscible liquids including:

- A submersible apparatus (90, 97), in figure 1 and 4, for removing liquid (20) from a pool of water (22) using an external pump (88) and an inlet conduit (84), in figure 2. Breslin,however fails to disclose the following limitation which is taught by Strauss:
- A pair of arcuate sections (52,54) that when in use mount about an inlet conduit (56,16) for a pump (28) to form a hollow body (52,54),the pair of

sections (52,54) forming at least one opening (56) located along the junction between the pair of sections (52,54) for a majority of the outer perimeter of the hollow body (52,54),allowing liquid to flow radially into the hollow body, in figure 1.

22. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the submersible apparatus of Breslin by making it in the form of two arcuate sections as taught by Strauss in order to reduce drag.

23. In re claim 24 Breslin in view of Strauss as applied to claim 23 disclose the claimed invention:

Strauss discloses:

- The pair of sections (52, 54) are releasably attached (via flanges 58, 60), in figure 1.

24. In re claim 25 Breslin in view of Strauss as applied to claim 24 disclose the claimed invention:

Strauss discloses:

- The width of at least one opening (the opening between the sections 52, 54) is adjustable in width (by varying the dimension of 82), in figure 1.In addition please note that it has been held that the provision of adjustability, where needed, involves routine skill in the art . In re Stevens, *101 USPQ 284 (CCPA* 1954).

Response to Arguments

25. Applicant's arguments with respect to claims 1 -25 have been considered but are not persuasive

26. In re claim 1,applicant amended the same by incuding all the limitations of previously dependent claim 4.Applicant then on page 2 last pargaraph and page 3 first paragraph argued that neither Strauss nor Ellison disclose or teach a hollow body that is nonfloatable in a pool of water.Examiner respectifully disagrees.Strauss in column 5 lines 24-25 discuss that the collection unit is held in place by mooring lines.Ellison in column 3,lines 36-37 discussed that the tramp oil collector **can be** floating or stationary.Thus one skilled in the art at the time the invention was made could make the fluid collecting apparatus to be stationary (non flotable) as taught by Ellison for structural stability against turbulence and associated loading.

In re claim 23-25 applicant amended claim 23 by adding a limitaion “wherein one section of the pair of sections is hingedely attached to the other section of the pair of sections.

Conclusion

27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amene S. Bayou whose telephone number is 571-270-3214. The examiner can normally be reached on Monday-Thursday,9:00 am-5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Devon Kramer can be reached on 571-272-7118. The fax

phone number for the organization where this application or proceeding is assigned is 571-273-8300.Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free)? If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Devon C Kramer/
Supervisory Patent Examiner, Art Unit 3746